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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MICHAEL RICHARD SCHULTZ
1362 Washington Blvd.
Concord CA 94521

Physical Therapist Assistant License Number AT
6030

Respondent.

Case No.

A C C U S A T I O N

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about February 20, 2001, the Physical Therapy Board of California issued Physical Therapist Assistant License Number AT 6030 to Michael Richard Schultz (Respondent). The Physical Therapist Assistant License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2006, unless renewed.

JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws.

1 All section references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2609 of the Code states:

3 The board shall issue, suspend, and revoke licenses and approvals to practice
4 physical therapy as provided in this chapter.

5 5. Section 2660 of the Code states:

6 The board may, after the conduct of appropriate proceedings under the
7 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose
8 probationary conditions upon, or issue subject to terms and conditions any license, certificate, or
9 approval issued under this chapter for any of the following causes:

10 (d) Conviction of a crime which substantially relates to the qualifications,
11 functions, or duties of a physical therapist. The record of conviction or a certified
12 copy thereof shall be conclusive evidence of that conviction.

13 (i) Conviction of a violation of any of the provisions of this chapter or of
14 the State Medical Practice Act, or violating, or attempting to violate, directly or
15 indirectly, or assisting in or abetting the violating of, or conspiring to violate any
16 provision or term of this chapter or of the State Medical Practice Act.

17 (l) The commission of any fraudulent, dishonest, or corrupt act which is
18 substantially related to the qualifications, functions, or duties of a physical
19 therapist.

20 COST RECOVERY

21 6. Section 2661.5 of the Code states:

22 (a) In any order issued in resolution of a disciplinary proceeding before
23 the board, the board may request the administrative law judge to direct any
24 licensee found guilty of unprofessional conduct to pay to the board a sum not to
25 exceed the actual and reasonable costs of the investigation and prosecution of the
26 case.

27 (b) The costs to be assessed shall be fixed by the administrative law judge
28 and shall not in any event be increased by the board. When the board does not

1 adopt a proposed decision and remands the case to an administrative law judge,
2 the administrative law judge shall not increase the amount of the assessed costs
3 specified in the proposed decision.

4 (c) When the payment directed in an order for payment of costs is not
5 made by the licensee, the board may enforce the order of payment by bringing an
6 action in any appropriate court. This right of enforcement shall be in addition to
7 any other rights the board may have as to any licensee directed to pay costs.

8 FIRST CAUSE FOR DISCIPLINE

9 (Conviction)

10 7. Respondent is subject to disciplinary action under sections 2660(d)
11 [conviction] and 2660 (l) [fraudulent or dishonest act] in that he was convicted of a violation of
12 Penal Code 602.1 [interfering with a business]. The circumstances are as follows:

13 8. On or about November 21, 2002, a criminal complaint titled *People of the*
14 *State of California vs. Michael Richard Schultz* was filed in Superior Court, Alameda County,
15 Hayward Hall of Justice. Count 1 charged respondent with a felony violation of Penal Code
16 487(a), grand theft of personal property in an amount exceeding \$400; to wit, on or about
17 December 16, 2001, respondent unlawfully took money which was the property of the Costco
18 store. Count 2 charged respondent with a felony violation of Penal Code 487(a), grand theft of
19 personal property in an amount exceeding \$400; to wit, on or about March 16, 2002, respondent
20 unlawfully took money which was the property of the Costco store. Count 3 charged respondent
21 with a felony violation of Penal Code 487(a), grand theft of personal property in an amount
22 exceeding \$400; to wit, on or about June 1, 2002, respondent unlawfully took money which was
23 the property of the Costco store. Count 4 charged respondent with embezzlement, a felony
24 violation of Penal Code section 503, in that while respondent was a Costco employee, he
25 unlawfully took money exceeding \$400.00 between December 16, 2001 and June 1, 2002.

26 9. On or about July 1, 2003, respondent was convicted on his plea of no
27 contest to a violation of Penal Code section 602.1 [interfering with a business]. The District
28 Attorney dismissed Counts 1, 2 and 3. Respondent was sentenced as follows: thirty six months

1 conditional sentence, ordered to pay a fine of \$100.00, attend a work program for sixty days to be
2 completed by December 1, 2003. The Court noted restitution had been made.

3 The circumstances of the conviction are as follows:

4 10. From 1996 through 2002, respondent was employed as an opening vault
5 clerk for the Costco store in San Leandro, California. As part of his job duties, respondent
6 bundled the cash, verified the amount, and placed it into a deposit bag. Armored Transport
7 Company then transported the money to the Bank of America. On December 16, 2001 and
8 March 16, 2002, Bank of America reported the Costco deposit was missing \$2,000.00 on each
9 date. On June 1, 2002, the store's deposit was missing \$10,000.00.

10 11. On November 4, 2002, San Leandro Police Officer S. Kahncook
11 interviewed respondent regarding his knowledge of the three incidents. Respondent admitted
12 that he had taken the money on December 16, 2001 and March 16, 2002. He stated that on June
13 1, 2002, he took \$10,000.00 but he claimed that he hid the money inside a cabinet in the vault
14 because he was disgruntled with management's handling of store business and vault transactions.

15 12. On November 6, 2002, respondent admitted to Officer Kahncook that he
16 had taken the \$10,000.00 out of the store and kept it in his apartment. Respondent stated that on
17 July 21, 2002, Costco Loss Prevention Agent Erik Blanton interviewed respondent regarding the
18 June 1, 2002 missing money. At that time, Respondent denied stealing any money from the vault
19 and asked if anyone had searched the vault. Mr. Blanton said the vault had not been searched,
20 and respondent volunteered to search it. Respondent returned the money to the vault and
21 claimed he found the money behind a box in the vault.

22 13. Therefore, respondent's license is subject to discipline in that he was
23 convicted of a violation of Penal Code 602.1 [interfering with a business] which is substantially
24 related to the practice of physical therapy.

25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein
27 alleged, and that following the hearing, the Physical Therapy Board of California issue a
28 decision:

1. Revoking or suspending Physical Therapist Assistant License Number AT 6030, issued to Michael Richard Schultz.

2. Ordering Michael Richard Schultz to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 07/19/2004

Original Signed By: _____
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

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